

Senate Chamber, Atlanta, Georgia
Monday, February 7, 2005
Thirteenth Legislative Day

The Senate met pursuant to adjournment at 1:00 p.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 68. By Representatives Shaw of the 176th and Houston of the 170th:

A BILL to be entitled an Act to amend an Act incorporating the City of Ray City, approved March 17, 1960 (Ga. L. 1960, p. 2473), as amended, particularly by an Act approved March 20, 1990 (Ga. L. 1990, p. 4040), so as to provide for staggered, four-year terms for the mayor and council; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 88. By Representatives Amerson of the 9th and Reece of the 27th:

A BILL to be entitled an Act to provide a homestead exemption from Lumpkin County school district ad valorem taxes for educational purposes in the amount of \$120,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 99. By Representatives Smith of the 129th and Buckner of the 130th:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Hamilton, approved March 10, 1964 (Ga. L. 1964, p. 2601), as amended, so as to provide for the filling of vacancies in the offices of the mayor or councilmen; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 143. By Representative Channell of the 116th:

A BILL to be entitled an Act to provide for a homestead exemption from Greene County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 144. By Representative Channell of the 116th:

A BILL to be entitled an Act to provide for a homestead exemption from Greene County School District ad valorem taxes for educational purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 146. By Representatives Channell of the 116th, Parham of the 141st and Hudson of the 124th:

A BILL to be entitled an Act to create a board of elections and registration for Putnam County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for certain expenditures of public funds; to provide for compensation of members of the board and personnel; to provide for offices and equipment; to provide for the board's performance of certain

functions and duties for certain municipalities; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

HB 151. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Code Section 40-5-2 of the Official Code of Georgia Annotated, relating to keeping of records of applications for drivers' licenses and information on licensees, so as to extend the pilot program to determine the revenue feasibility of supplying limited rating information to agents, insurers, and insurance support organizations; to provide for related matters; to repeal conflicting laws; and for other purposes.

HB 199. By Representative Willard of the 49th:

A BILL to be entitled an Act to amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to correct typographical, stylistic, and other errors and omissions in Title 21 of the Official Code of Georgia Annotated and in Acts of the General Assembly amending Title 21 of the Official Code of Georgia Annotated; to correct capitalization and spelling in Title 21 of the Official Code of Georgia Annotated; to provide for necessary or appropriate revisions and modernizations of matters contained in Title 21 of the Official Code of Georgia Annotated; to provide for other matters relating to Title 21 of the Official Code of Georgia Annotated; to provide an effective date; to repeal conflicting laws; and for other purposes.

The following Senate legislation was introduced, read the first time and referred to committee:

SB 14. By Senator Thompson of the 5th:

A BILL to be entitled an Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, so as to provide for an income tax credit with respect to qualified home improvement expenses; to provide for conditions and limitations; to provide for an income tax credit with respect to certain commercial real property located in a community improvement district; to provide for an income tax credit with respect to a business located in a community improvement district; to provide for powers, duties, and authority

of the state revenue commissioner with respect to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Finance Committee.

SB 118. By Senators Golden of the 8th and Meyer von Bremen of the 12th:

A BILL to be entitled an Act to amend Code Section 21-5-31 of the Official Code of Georgia Annotated, relating to contributions or expenditures other than through candidate or committee, so as to require any person who makes expenditures on behalf of candidates to disclose the names of the candidates for whom expenditures are made; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations (General) Committee.

SB 119. By Senators Chapman of the 3rd, Thomas of the 2nd, Johnson of the 1st, Tolleson of the 20th and Hill of the 4th:

A BILL to be entitled an Act to amend Code Section 27-4-150 of the Official Code of Georgia, relating to taking, possessing, and dealing in crabs and peelers and related record requirements, so as to postpone the date of an automatic repeal of certain provisions related to sponge crabs; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Natural Resources and the Environment Committee.

SB 120. By Senators Seabaugh of the 28th, Balfour of the 9th, Stoner of the 6th, Chance of the 16th, Hill of the 32nd and others:

A BILL to be entitled an Act to amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph service, so as to provide legislative findings and intent; to provide definitions; to provide that no state agency shall impose any requirement on broadband service, voice over Internet protocol, or wireless service; to provide that existing requirements are void; to provide for exceptions and construction; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

- SB 121. By Senators Moody of the 56th, Shafer of the 48th, Hill of the 32nd, Williams of the 19th, Rogers of the 21st and others:

A BILL to be entitled an Act to amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public disclosure of records is not required, so as to exempt records of the State Road and Tollway Authority that would reveal the identity, financial accounts, or travel history of an individual who is a motorist on a tollway project; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Science and Technology Committee.

- SB 122. By Senators Whitehead, Sr. of the 24th, Grant of the 25th and Cagle of the 49th:

A BILL to be entitled an Act to amend Part 1 of Article 2 of Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to solid waste management generally, so as to extend the collection of tire disposal fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Natural Resources and the Environment Committee.

- SB 123. By Senators Whitehead, Sr. of the 24th, Johnson of the 1st and Cagle of the 49th:

A BILL to be entitled an Act to amend Code Section 16-12-142 of the Official Code of Georgia Annotated, relating to requiring medical facilities or physicians to perform abortions and requiring others to assist, so as to provide that a pharmacist who states in writing an objection to any abortion shall not be required to fill a prescription for an emergency contraceptive drug which purpose is to induce and effect an abortion; to provide that such refusal shall not be the basis for any claim for damages; to provide for the duration of the effectiveness of the written objection; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

- SB 124. By Senators Seabaugh of the 28th, Johnson of the 1st, Balfour of the 9th and Meyer von Bremen of the 12th:

A BILL to be entitled an Act to amend Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, so

as to change the method of appointing certain members of the board; to provide for certain qualifications concerning licensing for board members; to provide for the time for appointing members of the board; to provide for the time for filing of applications for exemption from examination; to provide for the time for filing applications for certain licensing; to amend Section 2 of an Act approved May 14, 2004 (Ga. L. 2004, p. 786), so as to change the effective date of such Act; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

SB 125. By Senators Mullis of the 53rd, Rogers of the 21st, Zamarripa of the 36th, Whitehead, Sr. of the 24th, Stephens of the 27th and others:

A BILL to be entitled an Act to amend Titles 50 and 12 of the O.C.G.A., relating respectively to state government and conservation and natural resources; to promote tourism through a state-wide tourism marketing program and a more focused administrative structure; to provide for implementation and for coordination of other agencies by the Department of Economic Development; to provide corresponding amendments to powers of the Board of Economic Development; to provide for a Georgia Tourism Foundation and the solicitation and disbursement of contributions; to transfer the assignment for administrative purposes of certain venues and authorities with tourism roles to the Department of Economic Development; to provide for appointment of the board of the Music Hall of Fame Authority; to provide for an effective date; to repeal conflicting laws, and for related purposes.

Referred to the Economic Development Committee.

SB 126. By Senators Chance of the 16th, Seay of the 34th, Williams of the 19th, Staton of the 18th, Carter of the 13th and others:

A BILL to be entitled an Act to amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to provide for a special license plate promoting the Georgia Center for the Book; to provide for issuance, renewal, fees, licensing agreements, applications, donation of revenue, and transfers relative to such special license plates; to provide for related matters; to provide for a contingent effective date; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

- SB 127. By Senators Staton of the 18th, Shafer of the 48th, Rogers of the 21st, Williams of the 19th, Douglas of the 17th and others:

A BILL to be entitled an Act to amend Chapter 9 of Title 16 of the O.C.G.A., relating to forgery and fraudulent practices, so as to enact the "Georgia Computer Security Act of 2005"; to provide a short title; to provide definitions; to prohibit certain deceptive acts and practices with regard to computers; to require certain notices be given prior to certain software or programs being loaded onto certain computers; to require certain functions be available in certain software; to provide for certain exceptions; to provide for civil and criminal penalties; to provide for recovery of certain damages; to provide for applicability; to provide for related matters; to amend Code Section 16-14-3 of the O.C.G.A.; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Science and Technology Committee.

- SB 128. By Senators Miles of the 43rd, Butler of the 55th, Fort of the 39th, Seay of the 34th, Henson of the 41st and others:

A BILL to be entitled an Act to amend Article 2 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to hospital care for nonresident indigents, so as to provide further legislative findings; to provide for alternative procedures and sources of funding for reimbursing hospitals; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

- SB 129. By Senators Adelman of the 42nd, Weber of the 40th, Moody of the 56th, Miles of the 43rd and Zamarripa of the 36th:

A BILL to be entitled an Act to amend Code Section 16-12-120 of the O.C.G.A., relating to conduct in public transit buses, rapid rail cars, and rapid rail or intermodal bus stations, so as to provide that it shall be unlawful to solicit money or sell goods or services for a fee to the operator or passengers of a public transit bus or rapid rail car within the confines of such vehicle or inside the paid area of a rapid rail or intermodal bus station; to provide that it shall be unlawful to distribute certain materials to the operator or passengers of a public transit bus or rapid rail car within the confines of such vehicle or within the paid area of any rapid rail station or intermodal bus station; to

provide for penalties; to provide for related matters; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Transportation Committee.

SB 130. By Senators Miles of the 43rd, Williams of the 19th, Butler of the 55th, Goggans of the 7th, Moody of the 56th and others:

A BILL to be entitled an Act to amend Chapter 1 of Title 44 of the Official Code of Georgia Annotated, relating to general provisions regarding property, so as to provide that churches shall be exempt from the provisions regulating the removal and storage of vehicles from private real property; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Special Judiciary Committee.

SB 131. By Senator Butler of the 55th:

A BILL to be entitled an Act to amend Part 3 of Article 16 of Chapter 2 of Title 20 of the O.C.G.A., relating to student health, so as to enact the "Georgia's Children's Vision Improvement and Learning Readiness Act of 2005"; to provide for legislative findings; to provide for the State Board of Education to apply for federal funds to develop a state program to provide comprehensive eye examinations for children entering first grade; to require comprehensive eye examinations for all children entering first grade; to provide for a definition of comprehensive eye examination; to provide for the development of program eligibility criteria, a list of providers, a system of provider reimbursement, and a method for evaluation and reporting; to develop and disseminate educational materials about the need for and benefits of comprehensive eye examinations for children; to provide for related matters; to provide for an effective date contingent upon specific appropriations; to repeal conflicting laws; and for other purposes.

Referred to the Health and Human Services Committee.

SB 132. By Senator Williams of the 19th:

A BILL to be entitled an Act to amend an Act providing for the Board of Education of Wayne County, approved January 28, 1994 (Ga. L. 1994, p. 3512), as amended, so as to provide for the nonpartisan election of members of that board; to provide for submission of this Act under the federal Voting

Rights Act of 1965, as amended; to provide an effective date; to repeal conflicting laws; and for other purposes

Referred to the State and Local Governmental Operations Committee.

SB 133. By Senators Balfour of the 9th, Johnson of the 1st and Mullis of the 53rd:

A BILL to be entitled an Act to amend Chapter 10 of Title 25 of the Official Code of Georgia Annotated, relating to the regulation of fireworks, so as to change the definition of the term "fireworks"; to prohibit the sale of certain combustible or explosive compositions to persons under 16 years of age; to provide for a monetary penalty for sales made in violation of such prohibition; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Economic Development Committee.

SB 134. By Senators Kemp of the 46th, Harbison of the 15th, Fort of the 39th, Zamarripa of the 36th and Stephens of the 27th:

A BILL to be entitled an Act to amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as to provide that the Department of Juvenile Justice operate certain programs for persons who violate the terms and conditions of probation; to provide that the Department of Juvenile Justice operate certain community based alternative programs under certain circumstances; to change provisions relating to disposition of a delinquent child; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SR 86. By Senators Chance of the 16th, Seay of the 34th, Carter of the 13th, Staton of the 18th, Rogers of the 21st and others:

A RESOLUTION proposing an amendment to the Constitution so as to provide for a special license plate promoting the Georgia Center for the Book; to provide for the donation of revenue derived from the sales of such license plates to such organization and for deposit other than into the general fund; to provide for related matters; to provide for submission of this amendment for ratification or rejection; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SR 88. By Senators Fort of the 39th, Stephens of the 27th, Seay of the 34th, Tate of the 38th, Miles of the 43rd and others:

A RESOLUTION creating the Henry McNeal Turner Tribute Commission and authorizing the placement of a statue on the grounds of the state capitol building; and for other purposes.

Referred to the State and Local Governmental Operations (General) Committee.

The following House legislation was read the first time and referred to committee:

HB 68. By Representatives Shaw of the 176th and Houston of the 170th:

A BILL to be entitled an Act to amend an Act incorporating the City of Ray City, approved March 17, 1960 (Ga. L. 1960, p. 2473), as amended, particularly by an Act approved March 20, 1990 (Ga. L. 1990, p. 4040), so as to provide for staggered, four-year terms for the mayor and council; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 88. By Representatives Amerson of the 9th and Reece of the 27th:

A BILL to be entitled an Act to provide a homestead exemption from Lumpkin County school district ad valorem taxes for educational purposes in the amount of \$120,000.00 of the assessed value of the homestead for residents of that school district who are 70 years of age or older; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 99. By Representatives Smith of the 129th and Buckner of the 130th:

A BILL to be entitled an Act to amend an Act creating a new charter for the City of Hamilton, approved March 10, 1964 (Ga. L. 1964, p. 2601), as amended, so as to provide for the filling of vacancies in the offices of the mayor or councilmen; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 143. By Representative Channell of the 116th:

A BILL to be entitled an Act to provide for a homestead exemption from Greene County ad valorem taxes for county purposes in an amount equal to the amount by which the current year assessed value of a homestead exceeds the base year assessed value of such homestead; to provide for definitions; to specify the terms and conditions of the exemption and the procedures relating thereto; to provide for applicability; to provide for a referendum, effective dates, and automatic repeal; to repeal conflicting laws; and for other purposes.

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Referred to the State and Local Governmental Operations Committee.

HB 146. By Representatives Channell of the 116th, Parham of the 141st and Hudson of the 124th:

A BILL to be entitled an Act to create a board of elections and registration for Putnam County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for certain expenditures of public funds; to provide for compensation of members of the board and personnel; to provide for offices and equipment; to provide for the board's performance of certain functions and duties for certain municipalities; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 151. By Representative Martin of the 47th:

A BILL to be entitled an Act to amend Code Section 40-5-2 of the Official Code of Georgia Annotated, relating to keeping of records of applications for drivers' licenses and information on licensees, so as to extend the pilot program to determine the revenue feasibility of supplying limited rating information to agents, insurers, and insurance support organizations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

HB 199. By Representative Willard of the 49th:

A BILL to be entitled an Act to amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to correct typographical, stylistic, and other errors and omissions in Title 21 of the Official Code of Georgia Annotated and in Acts of the General Assembly amending Title 21 of the Official Code of Georgia Annotated; to correct capitalization and spelling in Title 21 of the Official Code of Georgia Annotated; to provide for necessary or appropriate revisions and modernizations of matters contained in Title 21 of the Official Code of Georgia Annotated; to provide for other matters relating to Title 21 of the Official Code of Georgia Annotated; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Special Judiciary Committee.

The following committee reports were read by the Secretary:

Mr. President:

The Judiciary Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 52	Do Pass
SB 53	Do Pass
SB 86	Do Pass

Respectfully submitted,
Senator Smith of the 52nd District, Chairman

Mr. President:

The Natural Resources and the Environment Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

HB 98 Do Pass as amended
SR 54 Do Pass

Respectfully submitted,
Senator Tolleson of the 20th District, Chairman

The following legislation was read the second time:

SB 4	SB 56	SB 87	SB 89	SB 97	SR 33
SB 26	SB 77	SB 88			

Senator Butler of the 55th asked unanimous consent that Senator Miles of the 43rd be excused. The consent was granted, and Senator Miles was excused.

Senator Powell of the 23rd asked unanimous consent that Senator Walker of the 22nd be excused. The consent was granted, and Senator Walker was excused.

The roll was called and the following Senators answered to their names:

Adelman	Hill,Jack	Smith
Balfour	Hill,Judson	Starr
Bulloch	Hooks	Staton
Butler	Hudgens	Stephens
Cagle	Johnson	Stoner
Carter	Jones	Tate
Chance	Kemp	Thomas,D
Chapman	Me V Bremen	Thomas,R
Douglas	Moody	Thompson,C
Fort	Mullis	Thompson,S
Goggans	Pearson	Tolleson
Golden	Powell	Unterman
Grant	Reed	Weber
Hamrick	Rogers	Whitehead
Harbison	Schaefer	Wiles
Harp	Seabaugh	Williams
Heath	Seay	Zamarripa
Henson	Shafer,D	

Not answering were Senators:

Brown

Miles (Excused)

Walker (Excused)

The members pledged allegiance to the flag.

Senator Staton of the 18th introduced the chaplain of the day, Dr. Gary E. Parker of Decatur, Georgia, who offered scripture reading and prayer.

The following resolutions were read and adopted:

SR 84. By Senators Kemp of the 46th and Hudgens of the 47th:

A RESOLUTION commending Larry Risse; and for other purposes.

SR 85. By Senator Meyer von Bremen of the 12th:

A RESOLUTION recognizing and commending Bradley Benson; and for other purposes.

SR 87. By Senators Meyer von Bremen of the 12th, Golden of the 8th, Hooks of the 14th, Harbison of the 15th, Hill of the 4th and others:

A RESOLUTION commending the Georgia Rural Health Association and recognizing Rural Health Day; and for other purposes.

HR 143. By Representatives Richardson of the 19th, Burkhalter of the 50th, Keen of the 179th, Fleming of the 117th and Burmeister of the 119th:

A RESOLUTION recognizing February 6 as "Ronald Reagan Day" in the State of Georgia; and for other purposes.

SR 89. By Senators Hamrick of the 30th, Kemp of the 46th, Johnson of the 1st, Stephens of the 27th, Goggans of the 7th and others:

A RESOLUTION remembering and honoring the life of Doris Avery Greene Mullis; and for other purposes.

Senator Kemp of the 46th spoke to SR 89, honoring the life of Doris Avery Greene Mullis and offering condolences to Senator Mullis of the 53rd and his family.

Senator Bulloch of the 11th introduced the doctor of the day, Dr. Lawrence Floor.

SENATE RULES CALENDAR
MONDAY, FEBRUARY 7, 2005
THIRTEENTH LEGISLATIVE DAY

- SB 55 Accountancy, Board; change composition; certification; provisions
 (Substitute)(RI&Util-28th)
- SB 68 Real Estate Appraisers; change definitions; continuing education courses;
 prov (Substitute)(RI&Util-28th)

Respectfully submitted,

/s/ Balfour of the 9th, Chairman
Senate Rules Committee

The following legislation was read the third time and put upon its passage:

SB 55. By Senators Seabaugh of the 28th and Balfour of the 9th:

A BILL to be entitled an Act to amend Chapter 3 of Title 43 of the O.C.G.A., relating to accountants, so as to change the composition of the state board of accountancy; to repeal certain provisions relating to registered public accountants; to provide that public accountants shall upon application be certificated as certified public accountants; to remove references to registered public accountants; to change certain provisions relating to use of titles and devices, false or fraudulent claims, and regulation of solicitation of employment; to amend Chapter 40 of Title 43 of the O.C.G.A.; to amend Article 13 of Chapter 1 of Title 7 of the O.C.G.A.; to amend Chapter 12 of Title 16 of the O.C.G.A.; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

The Senate Regulated Industries and Utilities Committee offered the following substitute to SB 55:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 3 of Title 43 of the Official Code of Georgia Annotated, relating to accountants, so as to change the composition of the state board of accountancy; to repeal certain provisions relating to registered public accountants; to provide that public accountants shall upon application be certificated as certified public accountants; to remove references to registered public accountants; to change certain provisions relating to use of titles and devices, false or fraudulent claims, and regulation of solicitation of

employment; to amend Chapter 40 of Title 43 of the Official Code of Georgia Annotated, relating to real estate brokers and salespersons, so as to remove references to registered public accountants; to amend Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to licensing of mortgage lenders and mortgage brokers, so as to remove references to registered public accountants; to amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against health and morals, so as to remove references to registered public accountants; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 3 of Title 43 of the Official Code of Georgia Annotated, relating to accountants, is amended by striking subsection (b) of Code Section 43-3-3, relating to the members of the State Board of Accountancy, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) The board shall consist of seven members, to be appointed by the Governor with the approval of the Senate. Each member of the board shall be a resident of this state. ~~Five~~ Six members of the board shall be certified public accountants, ~~and one member shall be a registered public accountant~~, all of whom shall hold a permit to practice public accounting issued under Code Section 43-3-24. One member shall be appointed from the public at large and shall be a person to whom neither this state nor any other state has ever issued a certificate, registration, license, or permit to engage in the practice of public accounting. The person serving on the board on June 30, 2005, as a registered public accountant member of the board shall serve the remainder of the term to which such person was appointed as one of the certified public accountant members of the board."

SECTION 2.

Said chapter is further amended by striking Code Section 43-3-13, relating to requirements for certificate of "registered public accountant," and inserting in its place the following:

"43-3-13.

Notwithstanding any other provision of this chapter, on and after July 1, 2005, each registered public accountant who holds a live permit and who is in good standing shall be certificated as a certified public accountant. On and after July 1, 2005, the board shall not consider any application for a certificate of registered public accountant."

SECTION 3.

Said chapter is further amended by repealing Code Section 43-3-14, relating to examinations for registered public accountants, and inserting in its place the following:

"43-3-14.

- ~~(a) The board may provide, by regulation, for the general scope of the examination described in paragraph (4) of subsection (a) of Code Section 43-3-13. The board may approve the examination and obtain advice and assistance in providing for and grading such examination and the division director, with the approval of the board, may contract with third parties to perform administrative services with respect to the examination as he or she deems appropriate.~~
- ~~(b) As a prerequisite to sit for the examination, candidates shall meet the education requirements provided for in subparagraph (a)(3)(A) of Code Section 43-3-13.~~
- ~~(c) An applicant for the certificate of registered public accountant who has successfully completed the examination provided for in paragraph (4) of subsection (a) of Code Section 43-3-13 shall have no status as a registered public accountant until he or she has the requisite education and experience and has received his or her certificate as a registered public accountant.~~
- ~~(d) The board, by regulation, may provide for granting a credit to any applicant for satisfactory completion of an examination in any one or more of the subjects provided for by paragraph (4) of subsection (a) of Code Section 43-3-13 given by the licensing authority in another jurisdiction. Such regulations shall include such requirements as the board deems appropriate to ensure that any examination approved as a basis for any such credit, in the judgment of the board, shall be at least as thorough as the examination approved by the board at the time of the granting of such credit.~~
- ~~(e) The board, by regulation, may prescribe the time and conditions under which an applicant may retain credit for passing a portion or portions of the examination provided for in paragraph (4) of subsection (a) of Code Section 43-3-13.~~
- ~~(f) Application for certification by persons who are not residents of this state shall constitute the appointment of the Secretary of State as the agent for service of process in any action or proceeding against such applicant arising out of any transaction, activity, or operation connected with or incidental to the practice of public accounting in this state by nonresident holders of registered public accountant certificates~~
Reserved."

SECTION 4.

Said chapter is further amended by repealing Code Section 43-3-16, relating to certificate holder as "registered public accountant," and inserting in its place the following:

"43-3-16.

~~Any person who has received a certificate as a registered public accountant from the board and who holds a live permit may be styled and known as a 'registered public accountant.' The division director shall maintain a list of registered public accountants; and, for this purpose, the board may provide by regulation a procedure whereby all registered public accountants are required to register with the board periodically~~
Reserved."

SECTION 5.

Said chapter is further amended by repealing Code Section 43-3-18, relating to reciprocity for registered public accountants, and inserting in its place the following:

"43-3-18.

~~The board, in its discretion, may waive the examination provided for in paragraph (4) of subsection (a) of Code Section 43-3-13 and may issue a certificate as a registered public accountant to any person who possesses the qualifications specified in paragraphs (1) and (2) of subsection (a) of Code Section 43-3-13 and what the board determines to be the substantial equivalent of the qualifications under paragraph (3) of subsection (a) of Code Section 43-3-13 and who is a holder of a certificate as a registered public accountant, then in full force and effect, issued under the laws of another state, provided that the certificate held by such person was issued after an examination which, in the judgment of the board, is the equivalent of the standard established by the board for examinations administered pursuant to paragraph (4) of subsection (a) of Code Section 43-3-13; and provided, further, that such privileges are extended to citizens of this state by the state originally granting the certificate~~ Reserved."

SECTION 6.

Said chapter is further amended by repealing Code Section 43-3-19, relating to persons holding registered public accountant certificates as of July 1, 1977, and inserting in its place the following:

"43-3-19.

~~Persons who hold registered public accountant certificates issued prior to July 1, 1977, under the laws of this state shall not be required to undergo recertification under this chapter but shall otherwise be subject to all applicable provisions of this chapter. Such certificates issued prior to July 1, 1977, shall be considered certificates issued under and subject to this chapter for all purposes~~ Reserved."

SECTION 7.

Said chapter is further amended by striking subsection (b) of Code Section 43-3-21, relating to registration requirements for firms of public accountants or certified public accountants; by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and by striking subsection (a) and inserting in its place the following:

"(a) A firm practicing public accountancy in this state shall register with the board as a firm of certified public accountants, provided it meets the following requirements:

- (1) Each partner, member, or shareholder of the firm shall be a certified ~~or registered~~ public accountant of some state in good standing;
- (2) The firm shall be in compliance with all requirements and provisions of state law governing the organizational form of the firm;
- (3) The firm shall comply with all regulations pertaining to firms registered with the board; and
- (4) The resident manager of the office of the firm and each partner, member, or

shareholder thereof personally engaged within this state in the practice of public accountancy shall be a certified ~~or registered~~ public accountant of this state in good standing."

SECTION 8.

Said chapter is further amended by striking subsection (a) and paragraph (1) of subsection (b) of Code Section 43-3-24, relating to issuance of permits to practice accountancy and issuance of temporary permits to nonresidents, and inserting in their place the following:

"(a) A permit to engage in the practice of public accountancy in this state shall be issued by the division director, at the direction of the board, to each person who is certificated as a certified public accountant under Code Sections 43-3-6 through 43-3-12, ~~registered as a public accountant under Code Sections 43-3-13 through 43-3-19, or~~ registered as a foreign accountant under Code Section 43-3-20 who shall have furnished evidence, satisfactory to the board, of compliance with the requirements of Code Section 43-3-25, and to individuals and firms registered under Code Section 43-3-21, provided that such entities are maintained and registered as required under Code Sections 43-3-21 and 43-3-23. There shall be a biennial permit fee in an amount to be determined by the board."

"(1) An applicant for a temporary permit under this subsection shall show that he or she is duly licensed and authorized to practice as a certified public accountant or as a firm of certified public accountants or the equivalent in another state ~~or as a registered public accountant or as a firm of registered public accountants or the equivalent in another state~~ and shall give the name of each person who will be engaged in the practice of public accounting in this state in the performance of the professional engagement which is the subject of the application;".

SECTION 9.

Said chapter is further amended by striking subsection (a) of Code Section 43-3-25, relating to continuing professional education requirements, and inserting in its place the following:

"(a) Every application for renewal of a live permit by any individual who is and has been certificated as a certified public accountant, ~~registered as a registered public accountant,~~ or registered as a foreign accountant by this state for one year or more shall be accompanied or supported by such evidence as the board shall prescribe of satisfactory completion of continuing professional education as provided in this Code section, provided that the board may relax or suspend requirements of continuing professional education in instances where an applicant's health requires it or in instances of individual hardship."

SECTION 10.

Said chapter is further amended by striking the introductory language of subsection (a) of Code Section 43-3-28, relating to revocation, suspension, or refusal to renew certificate, registration, or permit and immunity, and inserting in its place the following:

"(a) After notice and hearing as provided in Code Section 43-3-30, the board may revoke or suspend any certification issued under Code Sections 43-3-6 through 43-3-12 or a registration issued under ~~Code Sections 43-3-13 through 43-3-19 or under~~ Code Section 43-3-20 or may revoke, suspend, or refuse to renew any live permit or may censure the holder of any such permit for any cause which the board may deem sufficient, including, without limiting the generality of the foregoing, any one or any combination of the following causes:".

SECTION 11.

Said chapter is further amended by striking subsections (c) and (d) of Code Section 43-3-35, relating to use of titles or devices, false or fraudulent claims, and regulation of solicitation of employment; by redesignating subsections (f), (g), (h), and (i) as subsections (d), (e), (f), and (g), respectively; and by striking subsection (e) and inserting in its place the following:

"~~(e)(c)~~ No individual, firm, or any other person or entity shall assume or use: (1) any title or designation likely to be confused with 'certified public accountant,' ~~or 'public accountant,'~~ including, without limiting the generality of the foregoing, 'certified accountant,' 'enrolled accountant,' 'licensed accountant,' 'licensed public accountant,' or 'registered accountant'; or (2) any abbreviation likely to be confused with 'C.P.A.,' ~~or 'P.A.,'~~ including, without limiting the generality of the foregoing, 'C.A.,' 'E.A.,' 'R.A.,' 'L.A.,' or 'L.P.A.,' provided ~~that nothing in this subsection shall be construed to prohibit the use of the abbreviation 'P.A.' in accordance with Chapter 10 of Title 14, 'The Georgia Professional Association Act,' or Chapter 7 of Title 14, the 'Georgia Professional Corporation Act,' or any abbreviation authorized by Chapter 11 of Title 14, the 'Georgia Limited Liability Company Act'; and, provided, further,~~ that a foreign accountant registered under Code Section 43-3-20 who holds a live permit and all of whose offices in this state for the practice of public accountancy are maintained and registered as required under Code Sections 43-3-21 and 43-3-23 may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree."

SECTION 12.

Chapter 40 of Title 43 of the Official Code of Georgia Annotated, relating to real estate brokers and salespersons, is amended by striking paragraph (14) of subsection (a) of Code Section 43-40-29, relating to exceptions to operation of chapter, and inserting in its place the following:

"(14) A licensed certified public accountant ~~or registered public accountant~~ acting solely as an incident to the practice of public accounting."

SECTION 13.

Article 13 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to licensing of mortgage lenders and mortgage brokers, is amended by striking paragraph (2) of Code Section 7-1-1000, relating to definitions, and inserting in its place the following:

"(2) 'Audited financial statement' means the product of the examination of financial statements in accordance with generally accepted auditing standards by an independent certified public accountant ~~or by an independent Georgia-registered public accountant considered acceptable by the department~~, which product consists of an opinion on the financial statements indicating their conformity with generally accepted accounting principles."

SECTION 14.

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against health and morals, is amended by striking subsection (j) of Code Section 16-12-22.1, relating to raffles operated by nonprofit, tax-exempt organizations, and inserting in its place the following:

"(j) On or before April 15 of each year, every nonprofit, tax-exempt organization engaged in operating raffles shall file with the sheriff a report disclosing all receipts and expenditures relating to the operation of raffles in the previous year. The report shall be in addition to all other reports required by law. The report shall be prepared and signed by a certified ~~or-registered~~ public accountant competent to prepare such a report and shall be deemed a public record subject to public inspection."

SECTION 15.

Said chapter is further amended by striking Code Section 16-12-59, relating to annual report to be filed with the director of the Georgia Bureau of Investigation by bingo game operators, and inserting in its place the following:

"16-12-59.

On or before April 15 of each year, every nonprofit, tax-exempt organization engaged in operating bingo games shall file with the director a report disclosing all receipts and expenditures relating to the operation of bingo games in the previous year. The report shall be in addition to all other reports required by law. The report shall be prepared and signed by a certified ~~or-registered~~ public accountant competent to prepare such a report and shall be deemed a public record subject to public inspection."

SECTION 16.

This Act shall become effective on July 1, 2005.

SECTION 17.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 40, nays 1, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	Y Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	N Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 54, nays 1.

SB 55, having received the requisite constitutional majority, was passed by substitute.

SB 68. By Senators Seabaugh of the 28th, Johnson of the 1st, Stephens of the 27th, Balfour of the 9th, Brown of the 26th and others:

A BILL to be entitled an Act to amend Chapter 39A of Title 43 of the O.C.G.A., relating to real estate appraisers, so as to change certain definitions; to provide for board member recusals under certain circumstances; to provide for board approval of schools and instructors offering continuing education courses; to change certain provisions relating to hearings and investigations; to amend Chapter 40 of Title 43 of the O.C.G.A., relating to real estate brokers and salespersons, so as to change certain definitions; to provide for recusal of a commission member in certain circumstances; to change a provision relating to

removal of a commission member; to provide for the appointment of a director or coordinator for each approved school; to provide for related matters; to repeal conflicting laws; and for other purposes.

The Senate Regulated Industries and Utilities Committee offered the following substitute to SB 68:

**A BILL TO BE ENTITLED
AN ACT**

To amend Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real estate appraisers, so as to change certain definitions; to provide for board member recusals under certain circumstances; to provide for board approval of schools and instructors offering continuing education courses; to change certain provisions relating to hearings and investigations; to amend Chapter 40 of Title 43 of the Official Code of Georgia Annotated, relating to real estate brokers and salespersons, so as to change certain definitions; to provide for recusal of a commission member in certain circumstances; to change a provision relating to removal of a commission member; to provide for the appointment of a director or coordinator for each approved school; to provide requirements for school approval; to provide for the commission's power to regulate school approvals; to provide for hearings relating to refusal to approve a school; to change provisions relating to investigation of complaints; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real estate appraisers, is amended by inserting immediately following paragraph (8) of Code Section 43-39A-2, relating to definitions, a new paragraph (8.1) to read as follows:

"(8.1) 'Classification' means any license, certification, registration, approval, or similar authorization to practice a trade or profession permitted by this chapter or by similar statutes in this or other states by whatever designation such authorization to practice may be known."

SECTION 2.

Said chapter is further amended by striking Code Section 43-39A-3, relating to the Georgia Real Estate Appraisers Board, and inserting in lieu thereof the following:

"43-39A-3.

(a) There is created the Georgia Real Estate Appraisers Board, which shall consist of five members. All members must be residents of Georgia. One member shall be a public member. The public member of the board shall not be connected in any way with the practice of real estate appraisal, real estate brokerage, or mortgage lending. Four

members shall be real estate appraisers who have been actively engaged in the real estate appraisal business for at least three years. In appointing real estate appraisers to the board, while not automatically excluding other appraisers, the Governor shall give preference to real estate appraisers who do not hold an active, occupational license which authorizes their work in real estate brokerage or mortgage lending activities, who do not have a financial interest in any real estate brokerage firm or mortgage lending firm, and who are not employees of real estate brokerage firms or mortgage lending firms.

(b) The Governor shall appoint the members of the board, subject to confirmation by the Senate, with consideration given to appropriate geographic representation and to areas of appraisal expertise. Any such appointments made when the Senate is not in session shall be effective until acted upon by the Senate.

(c) ~~The term of each member of the board shall be five years, except that one of the successors to the two members first appointed to serve until July 1, 1992, shall be appointed to serve until July 1, 1994, and one of the successors to the two members first appointed to serve until July 1, 1993, shall be appointed to serve until July 1, 1995. In the event of a vacancy, the Governor shall appoint a person to fill such vacancy and the person so appointed shall serve for the remainder of the unexpired term.~~ A member of the board shall recuse himself or herself from voting on matters in which the member has a conflict of interest. Whenever an investigation authorized by this chapter results in the board's initiating a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' against a member, such member shall be recused from voting on any investigative matter until the contested case involving such member is resolved.

(d) Upon expiration of their terms, members of the board shall continue to hold office until the appointment and qualification of their successors. The Governor, after giving notice and opportunity for a hearing, may remove from office any member of the board for any of the following:

- (1) Inability to perform or neglecting to perform the duties required of members;
- (2) Incompetence; or
- (3) Dishonest conduct; or
- (4) Having a disciplinary sanction, other than a citation authorized by this chapter, imposed by any professional licensing agency on such member's right to practice a trade or profession.

(e) The members of the board shall annually elect a chairperson from among the members to preside at board meetings.

(f) The board shall meet at least once each calendar quarter, or as often as is necessary, and remain in session as long as the chairperson shall deem it necessary to give full consideration to the business before the board. A quorum of the board shall be three members. Members of the board or others may be designated by the chairperson of the board, in a spirit of cooperation, to confer with similar boards of other states, attend interstate meetings, and generally do such acts and things as may seem advisable to the board in the advancement of the profession and the standards of real estate appraisal

activity.

(g) Each member of the board shall receive as compensation for each day actually spent on his or her official duties at scheduled meetings and for time actually required in traveling to and from its meetings, not to exceed one day's traveling time, the sum of \$25.00 and his or her actual and necessary expenses incurred in the performance of official duties.

(h) The commission shall supply staff support for the board. The commissioner shall serve as executive officer of the board. The commissioner shall be charged with the duties and powers as delegated by the board."

SECTION 3.

Said chapter is further amended by striking subsection (c) of Code Section 43-39A-8, relating to establishment of appraiser classifications complying with federal law, and inserting in lieu thereof the following:

"(c) The board, through its rules and regulations, shall establish standards for offering of all education courses required by this Code section and for the approval of schools and instructors to offer the education courses required by this chapter. Each approved school must comply with the provisions of Code Section 43-40-15 et seq. Each approved school must designate an individual approved by the board to act as its director or coordinator, and such designated individual shall be responsible for assuring that the approved school complies with the requirements of this chapter and its rules and regulations. No school approval shall be granted to a school unless:

(1) Said school designates an individual approved by the board to act as its director or coordinator who shall be responsible for assuring that the school and its approved instructors comply with the provisions of this chapter and its attendant rules and regulations; and

(2) Said school authorizes its director or coordinator to bind the school to any settlement of a contested case before the board as defined in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in which said school may be a named respondent.

Violations of this chapter or its rules and regulations by an approved school shall subject the school and its director or coordinator to sanction as authorized by this chapter."

SECTION 4.

Said chapter is further amended by striking Code Section 43-39A-13, relating to the power of the board to regulate the issuance of appraiser classifications, and inserting in lieu thereof the following:

"43-39A-13.

The board, through its rules and regulations, shall have the full power to regulate the issuance of appraiser classifications; to discipline appraisers in any manner permitted by this chapter; to establish qualifications for appraiser classifications consistent with

this chapter; to regulate approved courses, instructors, and schools; and to establish standards for real estate appraisals. Except for conducting an investigation as provided in this chapter, the board is authorized to enter into such contracts as are necessary to carry out its duties under this chapter; provided, however, the board may enter into contracts to assist it in the conduct of investigations authorized by this chapter only whenever it needs special legal or appraisal expertise or other extraordinary circumstances exist. Whenever the board contracts to perform such investigative functions, any such contractor working on an investigation authorized by this chapter shall be under the supervision of the board or a duly authorized representative of the board. Any contractor used by the board shall be knowledgeable in the work area for which such contractor is retained. A contractor shall not be empowered to determine the disposition of any investigation nor to make any discretionary decision that the board is authorized by law to make. Notwithstanding any other provision of law, the board is authorized to retain all funds received as collection fees for use in defraying the cost of collection of fees required under this chapter. Any such funds not expended for this purpose in the fiscal year in which they are generated shall be deposited in the state treasury; provided, however, that nothing in this Code section shall be construed so as to allow the board to retain any funds required by the Constitution to be paid into the state treasury; provided, further, that the board shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such funds."

SECTION 5.

Said chapter is further amended by inserting at the end of Code Section 43-39A-14, relating to the required conduct of applicants, refusal of classification, and imposition of sanctions, a new subsection (m) to read as follows:

"(m) The provisions of this Code section applicable to licensees shall also apply to approvals issued by the board."

SECTION 6.

Said chapter is further amended by striking subsection (a) of Code Section 43-39A-15, relating to hearings in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and inserting in lieu thereof the following:

"(a) If the board, after an application in proper form has been filed with it, accompanied by the proper fee, shall refuse to issue an appraiser classification or approval to such applicant, the board shall provide an opportunity for a hearing for such applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Unless otherwise agreed to by the board, all such hearings shall be held in the county of domicile of the board."

SECTION 7.

Said chapter is further amended by striking subsections (a) and (d) of Code Section 43-

39A-22, relating to investigations, and inserting in lieu thereof the following:

"(a) The board may, upon its own motion, and shall, upon the sworn written request of any person, investigate the actions of any appraiser, applicant, or school approved by the board; provided, however, that, whenever a request for investigation involves an appraisal report which varies from a sales, lease, or exchange price by ~~40~~ 20 percent or less, or, if the appraiser is acting as a tax consultant, which varies from the tax assessor's value by 20 percent or less, the board may in its discretion decline to conduct an investigation. Except for investigations of applicants for appraiser classifications, investigations of allegations of fraudulent conduct, or investigations of possible violations of this chapter which have been litigated in the courts or arise from litigation in the courts, the board shall not initiate an investigation on its own motion or upon a sworn written request for investigation unless the act or acts which may constitute a violation of this chapter occurred within ~~three~~ five years of the initiation of the investigation."

"(d) The results of all investigations shall be reported only to the board or to the commissioner and the records of such investigations shall not be subject to subpoena in civil actions. Records of investigations shall be kept by the board and no part of any investigative record shall be released for any purpose other than a hearing before the board or its designated hearing officer, review by another law enforcement agency or lawful licensing authority upon issuance of a subpoena from such agency or authority or at the discretion of the board upon an affirmative vote of ~~all members~~ a majority of the quorum of the board, review by the respondent after the service of a notice of hearing, review by the board's legal counsel, or an appeal of a decision by the board to a court of competent jurisdiction; provided, however, if an investigation authorized by this chapter results in the board's filing a notice of hearing or entering into settlement discussions with a member of the board, the commissioner shall immediately notify the Governor or the Governor's legal counsel of such action by the board. After service of a notice of hearing, a respondent shall have a right to obtain a copy of the investigative record pertaining to the respondent."

SECTION 8.

Chapter 40 of Title 43 of the Official Code of Georgia Annotated, relating to real estate brokers and salespersons, is amended in Code Section 43-40-1, relating to definitions, by inserting a new paragraph (4.5) and by striking paragraph (5) and inserting in lieu thereof the following:

"(4.5) 'License' means any authorization or approval to practice a trade or profession permitted by this chapter or by similar statutes in this or other states by whatever designation such authorization to practice may be known.

(5) 'Licensee' means any person who is licensed as a community association manager, salesperson, associate broker, ~~or~~ broker, or qualifying broker or who holds an approval authorized by this chapter or similar designations in this or other states."

SECTION 9.

Said chapter is further amended in Code Section 43-40-2, relating to creation of the commission, by inserting immediately following subsection (b) a new subsection (b.1) and by striking subsection (c) and inserting in lieu thereof the following:

"(b.1) A member of the commission shall recuse himself or herself from voting on matters in which the member has a conflict of interest. Whenever an investigation authorized by this chapter results in the commission's initiating a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' against a member, such member shall be recused from voting on any investigative matter until the contested case involving such member is resolved.

(c) The Governor, after giving notice and an opportunity for a hearing, may remove from office any member of the commission for any of the following:

- (1) Inability to perform or neglecting to perform the duties required of members;
- (2) Incompetence; ~~or~~
- (3) Dishonest conduct; or

(4) Having a disciplinary sanction, other than a citation authorized by this chapter, imposed by any professional licensing agency on such member's right to practice a trade or profession."

SECTION 10.

Said chapter is further amended by striking subsection (i) of Code Section 43-40-8, relating to the qualifications of licensees, and inserting in lieu thereof the following:

"(i) The commission, through its rules and regulations, shall establish standards for the approval of schools and instructors to offer the education courses required by this chapter. Each approved school must comply with Code Section 43-40-15 et seq. Each approved school must designate an individual approved by the commission to act as its director or coordinator, and such designated individual shall be responsible for assuring that the approved school complies with the requirements of this chapter and its rules and regulations. If an approved school is organized as a business entity, such school and designated individuals shall be subject to the same requirements of business entities and their qualifying brokers as identified in this chapter. The commission, through its rules and regulations, shall establish standards for the offering of the prelicense education courses required by this chapter by methods of instruction, which it deems to be educationally sound, other than in-class instruction. The commission, through its rules and regulations, may establish standards for the offering of continuing education courses required by this chapter by methods of instruction, which it deems to be educationally sound, other than in-class instruction."

SECTION 11.

Said chapter is further amended by striking Code Section 43-40-10, relating to the granting of a broker's, associate broker's, salesperson's, or community association manager's license to a firm, and inserting in lieu thereof the following:

"43-40-10.

(a) No broker's license shall be granted to a firm unless:

- (1) Said ~~said~~ firm designates an individual licensed as a broker as its qualifying broker who shall be responsible for assuring that the firm and its affiliated licensees comply with the provisions of this chapter and its attendant rules and regulations; and
- (2) Said ~~said~~ firm authorizes its qualifying broker to bind the firm to any settlement of a contested case before the commission as defined in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in which said firm may be a named respondent. Violations of this chapter or its rules and regulations by a firm licensed as a broker shall subject the license of the qualifying broker to sanction as authorized by this chapter. No broker's license shall be granted to a firm unless every person who acts as a licensee for such firm shall hold a real estate license.

(b) No school approval shall be granted unless:

- (1) Said school designates an individual approved by the commission to act as its director or coordinator who shall be responsible for assuring that the school and its approved instructors comply with the provisions of this chapter and its attendant rules and regulations; and
- (2) Said school authorizes its director or coordinator to bind the school to any settlement of a contested case before the commission as defined in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' in which said school may be a named respondent.

Violations of this chapter or its rules and regulations by an approved school shall subject the school and its director or coordinator to sanction as authorized by this chapter.

~~(b)~~(c) No associate broker's, salesperson's, or community association manager's license shall be granted to a corporation, limited liability company, or partnership unless said corporation, limited liability company, or partnership designates an individual who holds the same type of license as its qualifying licensee who shall be responsible for assuring that the corporation, limited liability company, or partnership complies with the provisions of this chapter and its attendant rules and regulations. Violations of this chapter or rules and regulations by a corporation, limited liability company, or partnership licensed as an associate broker, salesperson, or community association manager shall subject both the license of the entity and the license of the qualifying licensee to sanction as authorized by this chapter. The qualifying licensee shall be the only licensee of a corporation, limited liability company, or partnership licensed as an associate broker, salesperson, or community association manager. The license of a corporation, limited liability company, or partnership licensed as an associate broker, salesperson, or community association manager must be assigned to a licensed broker. The licensed associate broker, salesperson, community association manager, corporation, limited liability company, or partnership or qualifying licensee may not engage in the brokerage business except in behalf of the broker to whom its license is assigned."

SECTION 12.

Said chapter is further amended by striking Code Section 43-40-14, relating to the power of the commission to issue, revoke, or suspend licenses and censure licenses, and inserting in lieu thereof the following:

"43-40-14.

The commission shall have the full power to regulate the issuance of licenses or approvals, to revoke or suspend licenses or approvals issued under this chapter, and to censure ~~licensees~~ licenses or approvals. The commission is authorized to enter into such contracts as are necessary to carry out its duties under this chapter; provided, however, the commission may enter into contracts to assist it in the conduct of investigations and examinations of brokers' trust accounts authorized by this chapter only whenever it needs special legal or accounting expertise or other extraordinary circumstances exist. Whenever the commission contracts to perform such investigation or examination of trust account functions, any such contractor working on an investigation or examination of a trust account authorized by this chapter shall be under the supervision of the commission or an employee of the commission. Any contractor used by the commission shall be knowledgeable in the work area for which such contractor is retained. A contractor shall not be empowered to determine the disposition of any investigation or examination of a trust account nor to make any discretionary decision that the commission is authorized by law to make. Notwithstanding any other provision of law, the commission is authorized to retain all funds received as collection fees for use in defraying the cost of collection of fees required under this chapter. Any such funds not expended for this purpose in the fiscal year in which they are generated shall be deposited in the state treasury; provided, however, that nothing in this Code section shall be construed so as to allow the commission to retain any funds required by the Constitution to be paid into the state treasury; provided, further, that the commission shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending any such funds."

SECTION 13.

Said chapter is further amended by inserting at the end of Code Section 43-40-15, relating to the grant, revocation, or suspension of licenses, a new subsection (n) to read as follows:

"(n) The provisions of this Code section applicable to licensees shall also apply to approvals issued by the Commission."

SECTION 14.

Said chapter is further amended by striking subsection (a) of Code Section 43-40-16, relating to the nonacceptance of applications for licenses, and inserting in lieu thereof the following:

"(a) If the commission, after an application in proper form has been filed with it, accompanied by the proper fee, shall refuse to issue a license or approval to such

applicant, the commission shall provide an opportunity for a hearing for such applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Unless otherwise agreed by the commission, all such hearings shall be held in the county of the domicile of the commission."

SECTION 15.

Said chapter is further amended by striking subsection (d) of Code Section 43-40-27, relating to investigation of complaints, and inserting in lieu thereof the following:

"(d) The results of all investigations shall be reported only to the commission or to the commissioner, and the records of such investigations shall not be subject to subpoena in civil actions. Records of investigations shall be kept by the commission and no part of any investigative record shall be released for any purpose other than a hearing before the commission or its designated hearing officer, review by another law enforcement agency or lawful licensing authority upon issuance of a subpoena from such agency or authority or at the discretion of the commission upon an affirmative vote of ~~all members~~ a majority of the quorum of the commission, review by the respondent after the service of a notice of hearing, review by the commission's legal counsel, or an appeal of a decision by the commission to a court of competent jurisdiction; provided, however, that if an investigation authorized by this Code section results in the commission's filing a notice of hearing or entering into settlement discussions with a member of the commission, the commissioner shall immediately notify the Governor or the Governor's executive counsel of such action by the commission. After service of a notice of hearing, a respondent shall have a right to obtain a copy of the investigative record pertaining to the respondent. Nothing in this subsection shall prevent the commission, in its sole discretion, from notifying persons who request investigations or respondent licensees of the receipt of a request for investigation or the commission's disposition of the investigation nor from making available to the public any documents that become a public record during the hearing process authorized by Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

SECTION 16.

All laws and parts of laws in conflict with this Act are repealed.

On the adoption of the substitute, the yeas were 44, nays 0, and the committee substitute was adopted.

The report of the committee, which was favorable to the passage of the bill by substitute, was agreed to.

On the passage of the bill, a roll call was taken, and the vote was as follows:

Y Adelman
Y Balfour

Y Hill, Jack
Y Hill, Judson

Y Smith
Y Starr

Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tate
Y Carter	Y Kemp	Y Thomas,D
Y Chance	Y Me V Bremen	Y Thomas,R
Y Chapman	Y Miles	Y Thompson,C
Y Douglas	Y Moody	Y Thompson,S
Y Fort	Y Mullis	Y Tolleson
Y Goggans	Y Pearson	Y Unterman
Y Golden	Y Powell	E Walker
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the passage of the bill, the yeas were 55, nays 0.

SB 68, having received the requisite constitutional majority, was passed by substitute.

Senator Stephens of the 27th moved that the Senate adjourn until 10:00 a.m. Tuesday, February 8, 2005.

The motion prevailed, and the President announced the Senate adjourned at 1:57 p.m.